

STATE OF TENNESSEE  
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:	)	
	)	
WANDA GAIL HARLIN d/b/a	)	TDFI No.: 07-73-C
CENTRAL CASH,	)	
	)	
Respondent.	)	

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EMERGENCY CEASE AND DESIST ORDER

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The Commissioner of the Tennessee Department of Financial Institutions (hereinafter "Commissioner"), having determined that Wanda Gail Harlin d/b/a Central Cash (hereinafter "Respondent"), has violated and is currently violating the Tennessee Title Pledge Act (hereinafter "Act"), Tennessee Code Annotated Sections (hereinafter "TENN. CODE ANN. §§") 45-15-101, *et seq.*, and that extraordinary circumstances require immediate action in this matter, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), and TENN. CODE ANN. § 45-15-118(b)(3).

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. TENN. CODE ANN. § 45-1-104 provides that the Tennessee Department of Financial Institutions (hereinafter "Department") is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 (Banks and Financial Institutions).

2. TENN. CODE ANN. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45 (Banks and Financial Institutions), the Commissioner has the authority to order any person to cease violating a provision of Title 45 (Banks and

Financial Institutions) or lawful regulation issued under Title 45 (Banks and Financial Institutions). Pursuant to TENN. CODE ANN. § 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

3. The Commissioner is responsible for the administration, enforcement, and interpretation of the Act, and any regulations promulgated pursuant to the Act. TENN. CODE ANN. §§ 45-15-101, *et seq.*

4. TENN. CODE ANN. §§ 45-15-102(1) and (3) state that the policy of this state and the purpose of Title 45 (Banks and Financial Institutions), Chapter 15 (Title Pledges), include ensuring "...a sound system of making title pledge loans through statewide licensing of title pledge lenders..." by the Department and providing "...for the examination and regulation of title pledge lenders by the..." Department.

5. Pursuant to TENN. CODE ANN. § 45-15-118(a)(1), if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated the Act or any administrative regulation issued pursuant to the Act, the Commissioner has the authority to order the person to cease and desist violating the Act or any administrative rules issued pursuant to the Act. However, in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action without providing the opportunity for a prior hearing pursuant to TENN. CODE ANN. § 45-15-118(b)(3). In such circumstances, the Commissioner shall promptly afford a subsequent hearing upon an application to rescind the action that is filed with the

Commissioner within twenty (20) days after receipt of the notice of the Commissioner's emergency action pursuant to TENN. CODE ANN. § 45-15-118(b)(3).

6. The Respondent is a sole proprietorship owned and managed by an individual named Wanda Gail Harlin. The principal office for the Respondent is located at 112 South Gallatin Road, Madison, Tennessee 37115. The Respondent was issued a check casher's license (license number 2187) by the Department on or about March 29, 2007 (03/29/07). The Respondent was issued a deferred presentment service provider's license (license number 3397) by the Department on or about March 29, 2007 (03/29/07).

#### FACTUAL ALLEGATIONS

7. The Respondent has never been issued a Tennessee license from the Department to lawfully engage in the business of title pledge lending in this state.

8. On or about June 17, 2005 (06/17/05), Commissioner Kevin Lavender sent to each of the nine hundred thirty-one (931) title pledge lenders identified through the various Tennessee County Clerks, including the Respondent, a Memorandum summarizing the requirements of the newly amended Act, a complete copy of the newly amended Act (HB 1784/SB 2025), and an information gathering checklist.

9. Additionally, on or about June 24, 2005 (06/24/05), Commissioner Kevin Lavender sent to each of the nine hundred thirty-one (931) title pledge lenders identified through the various Tennessee County Clerks, including the Respondent, an announcement regarding Title Pledge Informational Workshops to be conducted on different dates in Nashville, Tennessee, Memphis, Tennessee, and Knoxville, Tennessee.

10. Moreover, sometime in mid-October 2005, Compliance Division Director Stephen Henley sent to all title pledge lenders identified through the various Tennessee

County Clerks, including the Respondent, title pledge lender licensure application packets.

11. Said title pledge lender licensure application packets included another copy of the newly amended Act as well as a Memorandum that included the following statement:

If you are currently engaged in the business of title pledge lending under a license issued by the county clerk and you file your application with the Department by December 31, 2005, you may continue to operate until the Commissioner has acted upon your application. Otherwise, applicants not licensed by the county clerk must cease operations on November 1, 2005 and cannot resume until they first obtain a license from the Department.

12. Despite the aforementioned written notifications and announcements provided to the Respondent concerning the licensure requirements associated with the newly amended Act, the Respondent has engaged and is currently engaging in the business of title pledge lending at its principal office address without having first obtained a Tennessee title pledge lender's license from the Department.

13. On October 10, 2007 (10/10/07), Compliance Examiner-in-Charge Calvin Stout (hereinafter "Stout") conducted an onsite examination of the Respondent at its principal office address pursuant to the Check Cashing Act of 1997, TENN. CODE ANN. §§ 45-18-101, *et seq.*, and the Deferred Presentment Services Act, TENN. CODE ANN. §§ 45-17-101, *et seq.*

14. During the course of the onsite examination referenced in paragraph thirteen (13), Stout uncovered evidence that the Respondent was engaging in the business of title pledge lending in this state without having first obtained a Tennessee title pledge lender's license from the Department.

15. Based upon the evidence uncovered by Stout, the Department conducted a separate onsite examination of the Respondent at its principal office address pursuant to the Act. Said examination commenced on October 10, 2007 (10/10/07), and was conducted by Compliance Examiner-in-Charge Robert Hornbeak (hereinafter "Hornbeak").

16. During the course of the examination referenced in paragraph fifteen (15), Hornbeak gathered a sampling of the evidence in support of the finding that the Respondent engaged in the business of title pledge lending in this state without having first obtained a Tennessee title pledge lender's license from the Department.

17. Specifically, Hornbeak documented and collected copies of fifteen (15) active title pledge agreements that the Respondent had entered into without having first obtained a Tennessee title pledge lender's license from the Department.

18. Hornbeak drafted an examination report that included a "Violations from Examination" section. According to said examination report, under the "Violations from Examination" section, Hornbeak specifically noted "[v]iolation of T.C.A. 45-15-106(a)(g)(h) [t]he company has not applied for or received a license from the Department of Financial Institutions to operate as a Title Pledge Lender. The company has been operating since November 1, 2005 without a license."

19. The examination report referenced in paragraph eighteen (18) was signed by Hornbeak and by an individual named Fannie M. Lee (hereinafter "Lee"). According to said examination report, Lee was the Respondent's Manager at the time of the examination. Lee was provided a copy of the examination report at the conclusion of the examination.

20. The Respondent's pattern of entering into title pledge agreements is an indicator that the Respondent will continue to enter into title pledge agreements in the future, notwithstanding the fact that the Respondent has never been issued a Tennessee license from the Department to lawfully engage in the business of title pledge lending in this state.

#### CAUSES OF ACTION

21. The factual allegations as stated in paragraphs seven (7) through twenty (20) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent has violated and is currently violating TENN. CODE ANN. § 45-15-105(a), in that the Respondent has engaged and is currently engaging in the business of title pledge lending in this state without having first obtained a Tennessee title pledge lender's license from the Department.

22. The factual allegations as stated in paragraphs seven (7) through twenty (20) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that extraordinary circumstances require immediate action pursuant to TENN. CODE ANN. § 45-1-107(c) and TENN. CODE ANN. § 45-15-118(b)(3).

#### POLICY STATEMENT

23. In order to qualify for a title pledge lender's license, TENN. CODE ANN. § 45-15-106(a)(2) requires an applicant, in addition to other requirements, to demonstrate the financial responsibility, financial condition, business experience, character, and

general fitness sufficient enough to reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly.

24. Additionally, TENN. CODE ANN. § 45-15-106(a)(1) requires an applicant seeking a title pledge lender's license to demonstrate a tangible net worth, which comprises tangible assets less liabilities, of not less than seventy five thousand dollars (\$75,000.00) for each location.

25. Furthermore, TENN. CODE ANN. § 45-15-106(d)(3) requires an applicant seeking a title pledge lender's license to obtain a surety bond or irrevocable letter of credit in the amount of twenty-five thousand dollars (\$25,000.00), payable to the Commissioner and for the benefit of any person injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of the Act on behalf of a licensed title pledge lender.

26. Finally, TENN. CODE ANN. § 45-15-105(b) states that any title pledge agreement entered into without a title pledge lender's license is void as a matter of law, in which case the unlicensed lender making the loan forfeits the right to collect any moneys, including principal, interest, and any fees paid by the pledgor in connection with the title pledge agreement.

27. The factual allegations set forth in paragraphs seven (7) through twenty (20) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent has violated and is currently violating TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), and TENN. CODE ANN. § 45-15-118(b)(3), by engaging in the title pledge lending business in this state without having first obtained a Tennessee title pledge

lender's license from the Department and without possessing the requisite surety bond or irrevocable letter of credit. Said violation has deprived the Commissioner of the opportunity to determine whether the Respondent has the requisite financial responsibility, financial condition, business experience, character, and general fitness sufficient enough to reasonably warrant the belief that the Respondent's business will be conducted lawfully and fairly, thereby also depriving the Commissioner of the opportunity to make an informed determination of whether to grant the Respondent a title pledge lender's license under the Act, prior to the Respondent entering into title pledge agreements with Tennessee pledgors. Said violation has also deprived the Department and Tennessee pledgors of a surety bond or irrevocable letter of credit to pursue in the event that any pledgors are injured by the Respondent's fraud, misrepresentation, breach of contract, financial failure, or violation of the Act.

#### EMERGENCY RELIEF

28. Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent has violated and is currently violating the Act, and that extraordinary circumstances warrant immediate action.

#### IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- a. That the Respondent shall cease and desist immediately from engaging in the business of title pledge lending in this state without a Tennessee title pledge lender's license pursuant to TENN. CODE ANN. § 45-15-118(a)(1) and TENN. CODE ANN. § 45-15-105(a); and
- b. That the Respondent shall cease and desist immediately from collecting any moneys, including principal, interest, and any other fees



paid by pledgors in connection with existing title pledge agreements, and/or otherwise is ordered to cease and desist immediately from enforcing said existing agreements, including but not limited to the repossession of any and all motor vehicles, pursuant to TENN. CODE ANN. § 45-15-118(a)(1) and TENN. CODE ANN. § 45-15-105(b).

29. The provisions of this Order shall remain in full force and effect unless and until such time as any provision is modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

#### RIGHTS OF THE RESPONDENT

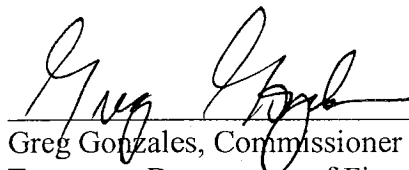
30. The Respondent has the right to a hearing for the purpose of contesting and obtaining rescission of this Order. If a separate hearing is timely requested by the Respondent, the hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, and pursuant to the Official Compilation Rules & Regulations of the State of Tennessee, Rules of Procedure for Contested Cases, Chapter 0180-6.

31. In order to request a hearing, the Respondent must file a written request with the Commissioner within twenty (20) days from receipt of this Order. Any written request for a hearing must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37219. If no such written request is timely filed with the Commissioner, then this Order shall be deemed effective and final for all purposes without further legal

process, and the Respondent shall be deemed to have waived any and all rights to seek judicial review, to challenge, and/or to contest the validity of this Order.

ENTERED AND EFFECTIVE this the 16<sup>TH</sup> day of October, 2007.

On behalf of the Department:

A handwritten signature in black ink, appearing to read "Greg Gonzales", is written over a horizontal line.

Greg Gonzales, Commissioner  
Tennessee Department of Financial Institutions